

1 **SAO**

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17 UNITED STATES DISTRICT COURT

18 DISTRICT OF NEVADA

19 GEMMA CASTILLO, individually,

20 Plaintiff,

21 vs.

22 STATE FARM MUTUAL AUTOMOBILE
23 INSURANCE COMPANY, DOES I- X, and ROE
24 CORPORATIONS I - X, inclusive,

25 Defendants.

26 CASE NO. 2:11-cv-00582-RLH-LRL

27 **STIPULATION AND ORDER TO
28 REMAND CASE TO STATE COURT**

29 Plaintiff Gemma Castillo ("Castillo"), by and through her counsel of record Glen J. Lerner &
30 Associates, and State Farm Mutual Automobile Insurance Company ("State Farm"), by and through
31 its counsel of record, Lewis Brisbois Bisgaard & Smith LLP, hereby stipulate as follows:

32 ///

1 **WHEREAS:**

2 1. Castillo alleges that on or about October 1, 2009, she was involved in an automobile
3 accident with a hit-and-run driver in Clark County, Nevada (the "Accident"). Castillo claims to
4 have sustained personal and other injuries as a result of the Accident.

5
6 2. On October 8, 2009, Plaintiff Gemma Castillo submitted a Traffic Accident Report to
7 the Las Vegas Police Department wherein she indicated that she resides in Las Vegas, Nevada and
8 holds a Nevada drivers license.

9 3. Defendant State Farm is, and was at the time this action was commenced, an
10 insurance company organized and existing under the laws of Illinois, with its principal place of
11 business in Bloomington, Illinois.

12
13 4. On April 28, 2011, Ms. Castillo filed an action against State Farm, Clark County
14 District Court Case No. A-11-639148-C, for breach of contract, contractual breach of the implied
15 covenant of good faith and fair dealing, tortious breach of the implied covenant of good faith and
16 fair dealing, bad faith, and unfair trade practices.

17 5. On May 25, 2011, State Farm removed this matter to matter to federal court on the
18 basis of diversity jurisdiction and amounts in controversy in excess of \$75,000.

19
20 6. On June 3, 2011, Plaintiff's counsel, Adam Smith, contacted defense counsel and
21 advised that Ms. Castillo had become an Illinois resident in November 2010. Mr. Smith provided a
22 declaration signed by Ms. Castillo on June 9, 2011 to this effect, a copy of which is attached hereto
23 as **Exhibit 1**.

24 **IT IS HEREBY STIPULATED AS FOLLOWS:**


25 1. This Agreement is entered into pursuant to Plaintiff's affirmation that she was an
26 Illinois resident at the time this action was filed and continues to be an Illinois resident. Should
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28

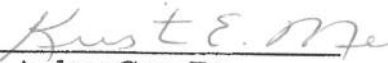
1 contrary evidence later be discovered, Defendant fully reserves all rights to remove this matter back
2 to federal court.

3 2. In light of Plaintiff's affirmation, diversity jurisdiction is no longer established, and
4 this matter should be remanded from the United States District Court, District of Nevada, back to
5 Clark County District Court for further proceedings.

6 GLEN J. LERNER & ASSOCIATES

LEWIS BRISBOIS BISGAARD & SMITH, LLP

7 By: 
8
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16 **ORDER**

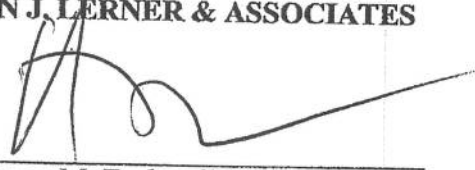
17 This action is hereby remanded back to Clark County District Court for further proceedings.

18 IT IS SO ORDERED this 28th day of June, 2011.

19 Submitted by:

20 
21 UNITED STATES DISTRICT JUDGE

22 GLEN J. LERNER & ASSOCIATES

23 By: 
24 Corey M. Eschweiler, Esq.
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26 Adam D. Smith, Esq.
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EXHIBIT 1

DECLARATION OF GEMMA CASTILLO

STATE OF ILLINOIS)
COUNTY OF COOK)ss:

Gemma Castillo swears or affirms as to the following facts and declares them to be true:

1. I am the Plaintiff in case number 2:11-cv-00582-RLH-LRL currently pending in the United States District Court, District of Nevada. I have personal knowledge of the facts stated herein and I am competent to testify thereto.

2. I moved to 17 Veneto Court, Streamwood, Illinois, in November, 2010, and have permanently lived at that address ever since.

3. I have no plans to move from Streamwood, Illinois, at this time, and I am currently employed in Illinois.

I declare under penalty of perjury under the laws of the State of Nevada and the United States of America that the foregoing is true and correct.

Executed on ^{June} May 9, 2011.


Gemma Castillo